



PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of
Bernard KRAEUTLER

Docket No: Q62381

Appln. No.: 09/720,082

Group Art Unit: 3634

Confirmation No.: 6983

Examiner: D. PUROL

Filed: December 20, 2000

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GROUP 3600

For: A MULTI-FUNCTION LINK BRACKET FOR A GOODS- HANDLING DOOR

APPELLANT'S BRIEF ON APPEAL UNDER 37 C.F.R. § 1.192

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 1.192, Appellant submits the following:

I. REAL PARTY IN INTEREST

The real party in interest is the Assignee, Nergeco, a French entity.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant, the Appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1 and 2 have been canceled, and are not the subject of this appeal.

Claims 3 and 4 have been withdrawn from consideration as being drawn to a non-elected invention, and are not the subject of this appeal.

Claims 5-9 are pending, have been rejected, and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

After the mailing of the Final Office Action on May 9, 2003, Appellants filed—on August 5, 2003—a Response Under 37 C.F.R. § 1.116. The August 5 Response did not make any amendments to the claims and, therefore, the claims remain as pending before the May 9 Final Office Action.

V. SUMMARY OF THE INVENTION

The claimed invention relates to goods-handling doors. Goods-handling doors are typically installed in warehouses, factories, stores, and the like to make it possible to open and close an opening formed in a wall. The door must be capable of being opened and closed rapidly in order to limit the time during which closure is no longer provided. It is common for the door to include a panel mounted to move up and down between two uprights. It is also common for the door to be provided with a curtain that can be rolled or folded up at the top of the opening. A rotary shaft is disposed, for example above the opening, to roll up the curtain.¹

In the art, one type of goods-handling door includes two brackets disposed on either side of the door at the top thereof.² An example of this type of door is shown in Fig. 1, and includes a flexible curtain 3 that can be rolled up around a shaft 4 disposed above an opening 2 formed in a wall 1. Respective brackets 10 are fixed on either side of the top of the opening. Each bracket 10 is L-shaped and includes a first branch fixed against the wall and a second branch perpendicular to the first branch. The brackets 10 carry seats 103 for bearings that mount shaft 4, and electrical control and mechanical drive members for the shaft.³

The brackets 10 are usually made of folded sheet metal and by welding. The accuracy of the parts manufactured in that way is limited. Further, when assembling the door, it is often

¹ Specification at page 1, lines 3-23.

² Specification at page 1, lines 24-26.

³ Specification at paragraph bridging pages 1 and 2.

necessary to make adjustments, to re-drill holes, and to add parts onto the bracket. Certain other members are added onto to the brackets by welding or by means of screws and bolts.⁴

An object of the present invention is to provide a multi-function bracket that is simpler, faster, more accurate, and less expensive to make. According to one embodiment of the invention, with reference to Fig. 2 for example, a unitary multi-function bracket 10 comprises:

a face branch 13 for fixing the bracket 10 to a wall, wherein the face branch 13 includes at least one hole 31, 32;

means 24 for supporting a bearing of a rotary shaft; and

a tab 26 for fixing the bracket to a slideway, wherein the tab 26 includes at least one hole 26A, 26B therethrough.⁵

A cover, similar to that disclosed in Cattaneo, may be mounted onto the bracket 10 by strip 22. See Fig. 3.

It is thus possible to choose the functions used for a particular type of door, and design one bracket to perform those functions without the necessity of adding on parts at the door assembly site. Such a construction advantageously includes all functions, thereby allowing one piece to be delivered to the door assembly site.⁶ Further, by incorporating many different functions, one part can be stored easily, and delivered to satisfy demand rapidly. The advantages, in particular the cost advantages, are considerable.⁷

⁴ Specification at page 2, line 12 - page 3, line 6.

⁵ See also, the Specification at: page 3, lines 7-15; page 4, lines 25-31; and page 5, lines 3-7, 12-17.

⁶ Specification at page 7, lines 32-33, 27-29.

⁷ Specification at page 8, lines 1-3.

VI. ISSUES

Issue 1

Whether claims 7-9 are unpatentable under §102(e) over the insufficient disclosure of US Patent 5,655,586 to Cattaneo (hereinafter Cattaneo).

Issue 2

Whether claims 5 and 6 are unpatentable under §103(a) over the deficient teachings of Cattaneo.

VII. GROUPING OF CLAIMS

Issue 1 With respect to Issue 1, claims 7-9 stand or fall together.

Issue 2 With respect to Issue 2, claims 5 and 6 stand or fall together.

VIII. ARGUMENTS

Issue 1

The Examiner rejected claims 7-9 under §102(e) as being anticipated by Cattaneo. Appellants respectfully traverse this rejection because Cattaneo fails to disclose every element as set forth and arranged in Appellant's claims.

Claim 8 sets forth a unitary multi-function bracket comprising a face branch including at least one hole therethrough, a means for supporting a bearing of a rotary shaft, and a tab including at least one hole therethrough. The "means for supporting" performs the function of supporting a bearing of a rotary shaft. This element is set forth as a function without any specific structure for performing that function and, therefore, is subject to interpretation under §112, 6th paragraph. Under this paragraph, unless an element performs the identical function specified in the claim, it cannot be an equivalent. *Pennwalt Corp. v. Durand-Wayland, Inc.*, 883 F.2d 931, 4 USPQ2d 1737 (Fed. Cir. 1987), *cert denied*, 484 U.S. 961 (1988). See also MPEP §§ 2183, 84

Accordingly, for the prior art to anticipate claim 8, it must disclose structure that performs the identical function as described in the "means for" clause of claim 8. In this case,

Cattaneo teaches only a “flank 1” for a box that supports a shaft or axle running on side guides.⁸ That is, the “flank” is only a cover for the main box, and it is the box that supports the axle; the flank itself does not support the axle. Indeed, Cattaneo’s figures support this interpretation. First, in Fig. 1, Cattaneo shows the flank 1 as including only holes having an axis perpendicular to the sheet of the paper; there are no mounting holes that extend in the plane of the paper so as to mount the structure shown to a supporting wall. Accordingly, the flank 1 is mounted—via the holes extending in a direction perpendicular to the sheet of the paper—to the main box. And it is the main box (not shown in Cattaneo) that supports the axle. Second, as shown in Fig. 2, the flank 1’—which is used in connection with the flank 1—includes only structure other than an axle extending from the center thereof. And such structure is not a bearing for supporting the axle. Accordingly, there is evidence in Cattaneo to suggest that the hole in the middle of the flank 1, 1’ does not support a bearing of a rotary shaft.

Thus, because Cattaneo does not disclose a structure that performs the exact same function of “supporting a bearing of a rotary shaft” as set forth in claim 8, it fails to anticipate this claim. Likewise, Cattaneo fails to anticipate dependent claims 7 and 9.

Issue 2

The Examiner rejected claims 5 and 6 under §103(a) as being unpatentable over Cattaneo. Appellant respectfully traverses this rejection because Cattaneo fails to teach or suggest all the elements as set forth in Appellant’s claims.

The Examiner asserts that, although Cattaneo does not disclose the type of material from which the bracket is constructed, it would have been obvious to choose the materials as set forth in Appellant’s claims. For the sake of argument, even assuming the propriety of the Examiner’s assertion, Cattaneo still fails to teach or suggest a means for supporting, as set forth in Appellant’s claims. Accordingly, Cattaneo fails to render obvious claims 5 and 6.

⁸ Cattaneo at col. 1, lines 14-24.

Conclusion

For the above reasons, Appellant respectfully requests that the Honorable Board of Patent Appeals and Interferences reverse the Examiner's rejections.

The present Brief on Appeal is being filed in triplicate. Unless a check is submitted herewith for the fee required under 37 C.F.R. §1.192(a) and 1.17(c), please charge said fee to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

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APPENDIX

Claims 5-9 on Appeal:

5. A bracket according to claim 8, wherein said bracket is made essentially of a non-metallic material.

6. A bracket according to claim 8, wherein said bracket is made of a light metal or alloy.

7. A goods-handling door, said goods handling door comprising at least one bracket according to claim 8.

8. A unitary multi-function bracket for a goods-handling door, said bracket comprising:
a face branch for fixing the bracket to a wall, wherein said face branch includes at least one hole therethrough;

means for supporting a bearing of a rotary shaft; and

a tab for fixing the bracket to a slideway, wherein said tab includes at least one hole therethrough.

9. The unitary bracket according to claim 8, further comprising at least one element chosen from the group constituted by:

a retention support;

a catch adjacent to said retention support;

re-centering projections for guiding a curtain;

re-insertion guides; and

at least one strip, extending from said face branch, for mounting a covering.